

### **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Applicants thank the Examiner for total consideration given the present application. Claims 1-30 are pending prior to the Office Action. Claims 31-34 have been added and no claims have been canceled through this reply. Therefore, claims 1-34 are pending. Claims 1, 20, 31, and 33-34 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seek timely allowance of all pending claims.

### **OFFICIAL ACTION**

#### **Request for Accepted Drawings**

The Office Action Summary does not indicate that the drawings are accepted. Applicants respectfully request the Examiner to indicate the acceptance of the drawings in the next Office Action.

#### **Claim Objections**

Claims 1-19, 22-26 and 28-29 have been objected to for the term "a channel band". The claims have been corrected and therefore the Applicants respectfully request that the outstanding objection be withdrawn.

#### **Claim Rejection - 35 U.S.C. § 112**

The Examiner rejected claims 1-19, 22-26 and 28-29 because the term "the channel band calculated" allegedly lacks antecedent basis. The term "the channel band calculated" has been amended to "the channel band determined". Therefore, the Applicants respectfully request that the outstanding rejection be withdrawn.

#### **Claim Rejection - 35 U.S.C. § 101**

The Examiner rejected claims 28-29 asserting that they are allegedly not a process, machine, manufacture, or composition of matter, or any new and useful improvement. The

claims have been amended according to similar language suggested by the Examiner. As such, Applicants respectfully submit that these claims are directed to statutory subject matter. Based on these amendments, it is respectfully requested that the outstanding rejection be withdrawn.

**Claim Rejection - 35 U.S.C. § 102(b)**

Claims 1-3, 5, 12, 17, 22-23 and 28-29 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated over Yoshiaki et al. (European Patent Application EP0969628A2). Applicants respectfully traverse this rejection.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Yoshiaki fails to teach or suggest each and every claimed element.

**Claim 1 feature not taught by Yoshiaki:**

Independent amended claim 1 now recites, *inter alia*, “A network relay device connected to a first communications network communicating with a first channel band and a second communications network with which said device can transmit data after securing a second channel band,...said device comprising:...a communications resource determination section for determining the second channel band to be obtained, changed, or released in the second communications network, in accordance with the event and/or the state, regarding the first communications network, detected by the event/state detecting section; and a communications resource management section for obtaining, changing, or releasing the second channel band in the second communications network via the second network interface on the basis of the channel band determined by the communications resource determination section.” *Emphasis added.* Applicants respectfully traverse this rejection.

Yoshiaki merely discloses a communication between node 9101 and node 9110 and communication between node 9110 and node radio terminal 9121. Further, Yoshiaki teaches a

connection is setup between 9101 and 9110 on a channel X to transfer image data. The 9110 transfers the image data to 9121 via channel A.

Thus, Yoshiaki merely discloses communication between two sets of nodes without Yoshiaki disclosing determining the second channel band to be obtained, changed, or released.

Dependant claims 2-3, 5, 12, 17, 22-23 and 28-29 are allowable for the deficiencies of the Yoshiaki reference for independent claim 1 as set forth above.

### **Claim Rejection - 35 U.S.C. § 103(a)**

Claims 20-21 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Ito et al. (U.S. Patent 6,529,522). Applicants respectfully traverse this rejection.

In claim 20, the Examiner cited Ito for the alleged teaching of a connection management section for controlling availability/unavailability of the network component. Neither Yoshiaki nor Ito teach or suggest a connection management section for identifying a connection that corresponds to a communication resource which has failed to be obtained or which is released, and controlling availability/unavailability of the network component. Applicants traverse the rejection based on the Yoshiaki and Ito references.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish a *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

### **Claim 20 feature not taught by Yoshiaki and Ito:**

Independent amended claim 20 now recites, *inter alia*, “a connection management section for identifying a connection that corresponds to a communication resource which has failed to be obtained or which is released, and controlling availability/unavailability of the network component” *Emphasis added*. Applicants respectfully traverse this rejection.

Yoshiaki merely discloses (in the Examiner's cited portions) a communication between node 9101 and node 9110 and communication between node 9110 and node radio terminal 9121. Yoshiaki teaches a connection is setup between 9101 and 9110 on a channel X to transfer image data. The 9110 transfers the image data to 9121 via channel A.

Ito merely discloses an operational knob of a digital camera used with the printer which can enable the camera to perform, for example, operations of taking a picture, turning off the power supply, and switching modes. At most, Ito discloses switching communication modes, however, neither Yoshiaki nor Ito disclose a connection management section controlling availability/unavailability of the channel band of the network component, based on identifying from a group including a connection that has failed or a connection that has been released as recited in claim 20.

Dependant claim 21 is allowable for the deficiencies of the Yoshiaki and Ito references for independent claim 20 as set forth above.

**Ito is Non-Analogous Art and there is no rationale to combine:**

If the proposed modification or combination of the prior art would change the principal of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Also see MPEP 2143.01 VI.

Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness. Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness. *Id.*

Yoshiaki teaches communication networks, including base stations and radio terminals that carry out communications with one another (abstract and paragraph 1 – which is the field of invention). The Examiner combines Ito with Yoshiaki with the reasoning of controlling the power supply of the 1394 interface for power saving features and to be able to set up communications with devices of different standards. The Examiner cites column 15 lines 38-50 which corresponds to figure 6. Figure 6 is an operational knob of a digital camera. Ito is non-

analogous art because Yoshiaki teaches a network communication system and Ito is cited to teach an operational knob of a digital camera. Further, how can one have sufficient rationale to combine an operational knob of a digital camera with a network communication device?

**Claim Rejection - 35 U.S.C. § 103(a)**

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Garg et al. (U.S. Patent Publication 2004/0008627). Claim 6 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of An et al. (U.S. Patent Publication 2001/0040919). Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Teramoto et al. (U.S. Patent 6,885,643). Claim 10 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of An in further view of Ma et al. (U.S. Patent Publication 2004/0001429). Claim 11 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of An in further view of Igarashi et al. (U.S. Patent Publication 2007/0184839). Claims 13-14, 16, 18-19 and 24 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Takeda (U.S. Patent 6,512,767). Claim 15 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of in view of Takeda (U.S. Patent 6,512,767) in further view of Seki (U.S. Patent Publication 2003/0018753). Claim 25 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Masunaga et al. (U.S. Patent Publication 2002/0061025). Claim 26 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Takeda (U.S. Patent Publication 2005/0163156). Claims 27 and 30 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Yoshiaki in view of Ito et al. in further view of Takeda (U.S. Patent Publication 2005/0163156). Applicants respectfully traverse these rejections.

The deficiencies of the Yoshiaki and Ito references were discussed above and the Office Action does not rely on Garg, An, Teramoto, Ma, Igarashi, Takeda, Seki, and Masunaga to teach the features asserted above for patentability. Further, Garg, An, Teramoto, Ma, Igarashi, Takeda,

Seki, and Masunaga do not make up for the deficiencies of the Yoshiaki and Ito references. In sum, the references of Yoshiaki, Ito, Garg, An, Teramoto, Ma, Igarashi, Takeda, Seki, and Masunaga, individually or in any combination, do not teach the deficiencies of the Yoshiaki and Ito references as discussed above. Therefore, for at least these reasons, all claims are believed to be distinguishable over the combination of Yoshiaki, Ito, Garg, An, Teramoto, Ma, Igarashi, Takeda, Seki, and Masunaga, individually or in any combination

### **CONCLUSION**

Therefore, for at least these reasons, all claims are believed to be distinguishable over the combination of Yoshiaki and Ito, individually or in any combination. It has been shown above that the cited references, individually or in combination, may not be relied upon to show at least these features. Therefore, claims 1-30 are distinguishable over the cited references.

In view of the above remarks, Applicants believe the pending application is in condition for allowance.

Applicants respectfully request that the claims 1-34 be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael R. Cammarata, Reg. No. 39,491, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

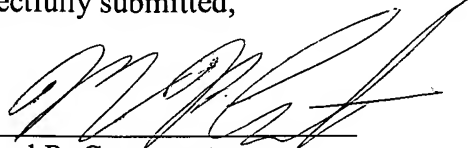
Application No. 10/535,239  
Amendment dated February 27, 2008  
Reply to Office Action of November 28, 2007

Docket No.: 1248-0783PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: February 27, 2008

Respectfully submitted,

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